

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

STARHOME GMBH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 10-434 (GMS)
	)	
AT&T MOBILITY LLC, ROAMWARE,	)	
INC. and T-MOBILE USA, INC.,	)	
	)	
Defendants.	)	

**STIPULATION RESERVING RIGHT TO APPEAL AND  
FOR ENTRY OF FINAL JUDGMENT OF NON-INFRINGEMENT  
UNDER THE COURT'S CLAIM CONSTRUCTION**

WHEREAS, Plaintiff Starhome GmbH ("Starhome") brought this action against Defendants AT&T Mobility LLC, Roamware, Inc., and T-Mobile USA, Inc. ("Defendants") in which Starhome has asserted that Defendants infringe certain claims U.S. Patent Nos. 6,920,487 (the "'487 patent") and 7,231,431 (the "'431 patent");

WHEREAS, Defendants have denied that the '487 patent and the '431 patent are valid or infringed, and counterclaimed that the '487 patent and the '431 patent are each not valid and not infringed;

WHEREAS, the term "intelligent gateway" is an element of each asserted claim of the '487 patent and the '431 patent;

WHEREAS, in its Claim Construction Order of April 12, 2012 (D.I. 124) the Court construed the claim term "intelligent gateway" to mean "a network element that transfers information to and from a mobile network and another network external to the mobile network";

WHEREAS, on July 25, 2012, the Court granted Defendants leave to file a motion for summary judgment of non-infringement based on the Court's construction of "intelligent gateway";

WHEREAS, the parties stipulate that the accused systems do not directly transfer information to and from a network external to the mobile network;

WHEREAS, in view of the above, Starhome stipulates that the Defendants' accused systems do not infringe the '487 patent and the '431 patent under the Court's construction of "intelligent gateway"; and

WHEREAS, to avoid the expense and time for resolving a motion by Defendants for summary judgment of non-infringement based on the Court's construction of "intelligent gateway," Starhome seeks to enter into a Judgment of Non-Infringement by Defendants of the '487 patent and the '431 patent;

The parties, by and through their undersigned counsel, hereby agree as follows:

1. On the basis of the Court's construction of "intelligent gateway" and the parties' stipulation that the Defendants' accused systems do not practice this limitation as so construed, either literally or under the doctrine of equivalents, the Court should enter a final judgment of non-infringement by Defendants of the '487 patent and the '431 patent.
2. Starhome's claims of infringement under the '487 and '431 patents against Defendants should be dismissed WITH PREJUDICE.
3. In connection with such final judgment of non-infringement, Defendants' defenses and counterclaims should be dismissed WITHOUT PREJUDICE to Defendants' right to assert any and all defenses and counterclaims in the event of an appellate judgment other than affirmance.
4. The parties recognize that because the parties stipulate to non-infringement based on the "intelligent gateway" limitation, this stipulation and proposed final judgment resolves the issue of non-infringement based only on the Court's construction of the

term “intelligent gateway,” and that all other issues, including claim constructions of other terms, have not been finally resolved by the Court. The parties reserve all rights to appeal other rulings that do not form the basis for the finding of non-infringement described above, including the Court’s other claim construction rulings, in the event of an appellate judgment other than affirmance.

5. The parties respectfully request that the Court enter judgment in the form attached hereto as Final Judgment of Non-Infringement.

MORRIS JAMES LLP

*/s/ Kenneth L. Dorsney*

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SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

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J.